

Budget
HSC
Felt

18 May 1988

MEMORANDUM FOR: Deputy Director for Administration

FROM: Daniel A. Childs, Jr.
Comptroller

SUBJECT: Congressionally Directed Action from the House Permanent
Select Committee on Intelligence

La

1. The House version of the intelligence authorization bill for FY 1989 directs CIA to submit within 90 days of enactment a report that describes the representation of women and minorities in the Central Intelligence Agency and proposes a plan to rectify by 30 September 1991 any underrepresentation of those groups. The amendment also calls for interim reports in 1989, 1990, and 1991 that detail the progress made in correcting any underrepresentation of women and minorities in the CIA workforce. (A-IUO)

2. Please provide the requested report to this Office by 1 August; interim progress reports will be due to this Office on 1 January of 1989, 1990, and 1991. (A-IUO)

3. In addition, the Committee has expressed its concern over the disparity between the NSA and CIA undergraduate training programs and has urged CIA to reconcile the differences relating to payments to students and the formula used to calculate the students' obligation to the sponsoring agency. The Committee also urges new efforts to focus these programs on high school candidates. Please provide to this Office by 1 August 1988 a report on actions undertaken to comply with the Committee's direction. (A-IUO)

4. The appropriate passages from the bill are attached. Please do not hesitate to call me or any member of my staff if we can be of assistance. (A-IUO)

STAT



Daniel A. Childs, Jr.

Attachment:
As stated

~~ADMINISTRATIVE~~ INTERNAL USE ONLY

SUBJECT: Congressionally Directed Action from the House Permanent Select
Committee on Intelligence

Distribution:

Orig - Addressee

1 - DDA Registry

1 - C/MS/DA

1 - D/OP

1 - D/OCA

1 - OCA House

1 - OCA Registry

1 - COMPT Subject

1 - Compt

1 - D/Compt

1 - C/AG

1 - ANG Subject

1 - ANG Chrono

STAT

O/Compt/AnG: (17 May 88) (COMPT 88-699)
(AnG #2435)

100TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 100-591
Part 1

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1989

APRIL 29, 1988.—Ordered to be printed

Mr. STOKES, from the Permanent Select Committee on Intelligence,
submitted the following

REPORT

[To accompany H.R. 4387]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

On page 8, after line 6, insert the following:

EQUAL EMPLOYMENT OPPORTUNITY PLAN

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1 of 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of

19-006

each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of equal employment opportunity group."

(c) For purposes of this section, the term "equal employment opportunity group" means—

- (A) white women,
- (B) black men,
- (C) black women,
- (D) Hispanic men,
- (E) Hispanic women,
- (F) Asian American and Pacific Islander men,
- (G) Asian American and Pacific Islander women,
- (H) Native American and Alaskan Native men, or
- (I) Native American and Alaskan Native women.

PURPOSE

The bill would:

- (1) Authorize appropriations for fiscal year 1989 for (a) the intelligence and intelligence-related activities of the U.S. Government, (b) the Intelligence Community Staff and (c) the Central Intelligence Agency Retirement and Disability System;
- (2) Authorize the personnel ceilings on September 30, 1989 for the intelligence and intelligence-related activities of the U.S. Government and exempt the Defense Intelligence Agency and the Defense Mapping Agency from Defense Agency manpower reductions;
- (3) Permit the Director of Central Intelligence to authorize personnel ceilings in fiscal year 1989 for any intelligence elements up to 2 percent above the authorized levels;
- (4) Prohibit procurement of more than three GUARDRAIL RC-12K aircraft and sensors until the submission to Congress of a report on tactical airborne reconnaissance.
- (5) Establish restrictions on, and provide specific authorizations of appropriations and transfer authority to, the Federal Bureau of Investigation with respect to its foreign counterintelligence activities;
- (6) Establish restrictions on support for military or paramilitary operations in Nicaragua;
- (7) Provide authority to the Director of Central Intelligence during fiscal year 1989 to grant monetary or other relief to former employees of the Central Intelligence Agency whose careers were adversely affected as a result of allegations concerning their loyalty;
- (8) Establish a five-year demonstration project at the New York Field Division of the Federal Bureau of Investigation to ascertain the effects of certain lump sum and periodic payments on recruitment and retention of personnel and on field operations of the New York Division;
- (9) Clarify the Secretary of Defense's authority to use nonappropriated funds for foreign cryptologic support;
- (10) Establish a new Assistant Secretary of Defense for Intelligence; and

- (11) Make technical corrections to the Defense Intelligence Agency's authority to withhold from public disclosure organizational and personnel information.

OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET

COMMITTEE INTENT

The classified schedule of authorizations and the detailed explanation found in the classified annex to this public report contains a thorough discussion of all budget issues considered by the committee and are available to all Members of the House. The schedule of authorizations lists the dollar amounts and personnel ceilings for all the intelligence and intelligence-related programs authorized by the bill. The schedule is directly incorporated into, and is integral to, the bill itself. It is the intent of the committee that all intelligence programs discussed in the annex to this report be conducted in accordance with the guidance and limitations contained therein.

SCOPE OF COMMITTEE REVIEW

The National Foreign Intelligence Program budget consists of the following departments, agencies, and other elements of the Government: (1) the Central Intelligence Agency; (2) the Department of Defense; (3) the Defense Intelligence Agency; (4) the National Security Agency; (5) the Departments of the Army, Navy, and Air Force; (6) the Department of State; (7) the Department of the Treasury; (8) the Department of Energy; (9) the Federal Bureau of Investigation; (10) the Drug Enforcement Administration; (11) the Intelligence Community Staff of the Director of Central Intelligence.

The Department of Defense Tactical Intelligence and Related Activities (TIARA) are a diverse array of reconnaissance and target acquisition programs which are a functional part of the basic force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff, the Secretary of Defense, includes those activities outside the defense intelligence program which respond to military command for operational support information as well as to national command, control, and intelligence requirements. These military intelligence activities also fall within the jurisdiction of the Committee on Armed Services.

During February and March 1988, the Program and Budget Authorization Subcommittee conducted a series of 11 hearings including a total of more than 30 hours of testimony with witnesses. Each major intelligence and intelligence-related program. The budget hearings resulted in written responses to many additional questions.

OVERALL COMMITTEE FINDINGS AND RECOMMENDATIONS

The administration requested a small percentage of real growth for fiscal year 1989 over the amount Congress appropriated for intelligence in fiscal year 1988. The committee determined that the total amount requested for fiscal year 1989 was approximately correct. The committee recommends a slightly lower level of funding.

TITLE IV—GENERAL PROVISIONS

Section 401

Section 401 provides that the authorization of appropriations by the bill shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

Section 402

Section 402 provides that appropriations authorized by the bill for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

Section 403

Section 403 requires the Director of Central Intelligence and the Secretary of Defense to submit 90 days after enactment a report setting forth an analysis of the representation of each minority group (termed equal employment opportunity in this section) at CIA and NSA, respectively, and proposing a plan for each agency that would address any underrepresentation of any such group by September 30, 1991. Both the Director and the Secretary are required to provide interim reports on February 1, 1989, 1990, and 1991 for their respective agencies detailing the efforts they have made, and the progress that has been realized by each agency in achieving the objectives of each plan. These reports must address, among other things, the number of applications from minority groups, and the hiring, the promotion and the training of members of such groups for each agency. Section 403(c) lists those minority groups who qualify as equal employment opportunity groups.

The committee's purpose in adopting this amendment was to give added emphasis to minority programs at both CIA and NSA. The committee regularly receives reports on such efforts and has noted some improvements in recent years. However, improvements in minority representation have occurred principally in the support field, while minority representation in professional fields lags behind. The committee was instrumental in beginning minority recruitment programs for critical skills personnel. Referred to as undergraduate training programs (UTP), these programs were designed to assist CIA and NSA in recruiting minorities for mainstream professional positions. While these programs have been implemented at both agencies, the committee also feels that much more could be done and bases this in large part on the testimony of the Director of Central Intelligence and the Director of the National Security Agency in appearances before the committee this year.

The committee wishes to emphasize that, in preparing the plans called for by Section 403, both the Director of Central Intelligence and the Director of the National Security Agency in appearances before the committee this year.

The committee wishes to emphasize that, in preparing the plans called for by Section 403, both the Director of Central Intelligence and the Secretary of Defense should construe the terms "representation" and "underrepresentation" as encompassing not only the

numbers of members of minority groups present in the total work force of an agency but also the grade or payband distribution of minority group members in both professional and support areas, as well as the projected career development of such groups.

The committee's purpose in requiring an EEO plan for each agency is not to set inflexible goals or hiring quotas, but rather to identify weaknesses in minority representation and participation, strengthen existing programs to acquire better minority representation and focus new resources and higher priority attention across the entire equal employment opportunity spectrum. The committee does not intend that numerically insignificant minority representation nationwide should require significant EEO programmatic efforts at either agency. However, the committee cautions that the essence of a successful equal employment opportunity approach is to predicate efforts at recruiting, hiring, promotion, and training of minority group members on the principle that the diversity, experience and often unique skills they bring to any workforce are a positive benefit. Such benefits should be understood, emphasized, and sought.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

Section 501

Section 501 would grant the Director of Central Intelligence the authority during fiscal year 1989 to grant monetary or other relief, including reinstatement and promotion, as the Director considers appropriate, to former employees whose career with the Agency had been adversely affected as a result of allegations concerning their loyalty to the United States. This authority mirrors similar authority provided in the Fiscal Year 1981 Intelligence Authorization Act. It is intended to address the peculiar circumstances of at least one former employee whose forced retirement from the Agency at a time of heightened concerns about loyalty to the United States has since been shown to have been unjustified. The authority provided by Section 501 is not reviewable in any court or other forum and is effective only to the extent that appropriated funds are available for the purpose of making payments to former employees. Finally, any exercise of the authority by the Director of Central Intelligence must be the subject of prior notification to the intelligence committees of the House and Senate.

TITLE VI—FBI COUNTERINTELLIGENCE AUTHORITIES

Section 601

Section 601 would establish a five-year demonstration project in the FBI's New York Field Division in order to ascertain the effects on recruitment and retention of personnel and on field operations, including counterintelligence operations, of lump sum and periodic payments to certain FBI personnel at that office. Such payments are intended to offset the high cost of living in the New York metropolitan area. Section 601 requires that the demonstration project be conducted by the FBI in conjunction with the Office of Personnel Management and include the provision of lump-sum payments to personnel assigned to the New York Field Division from another

and budgeting, and those functions and responsibilities traditionally grouped together with intelligence activities, such as foreign counterintelligence and security programs and support to covert action, should be consolidated under the ASD(I). It is also the intention of the committee to streamline policymaking on intelligence and intelligence-related matters within the Department by providing that the new Assistant Secretary would report directly to the Secretary of Defense. However, the committee wishes to emphasize that creation of this new Assistant Secretary position would not affect the responsibilities of the Under Secretary of Defense for Acquisition to coordinate the acquisition of tactical intelligence and related systems.

For more than ten years, the committee has attempted to strengthen the management of intelligence and related activities within the Department of Defense. Intelligence is widely recognized as a unique area within DoD, not only because of its special security constraints and extensive cross service and inter-agency implications but because intelligence plays such a decisive role in supporting military operations and in the defense policy, planning and weapon acquisition processes. Despite this recognition, however, the Department decentralized management of intelligence matters in 1978. Subsequently, the committee has repeatedly been presented with evidence of ineffective staff support up to the Secretary, staff supervision and guidance downward to the Defense components, and inadequate representation of Defense interests in the intelligence community. Even basic mechanisms for ensuring that timely and accurate intelligence is made available to support military operations and decision making appear to be lacking.

From 1978 to 1984, the committee repeatedly expressed concern about the widespread division of responsibilities for intelligence matters within the Office of the Secretary of Defense. Although some improvement was noted with the establishment of an ASD(C³I) in late 1984, responsibilities for DoD intelligence matters remained fragmented. Further, in its examination of DoD intelligence management since 1984, the committee has observed ample evidence that combining the management of C³ and Intelligence functions generally has not worked to the benefit of either function and to the extent that there has been success, it was attributable to the personality and background of the individual appointed as the ASD(C³I).

The committee's continued concern regarding the need to strengthen management of DoD intelligence was reinforced by the reports required to be submitted by the Goldwater-Nichols DoD Reorganization Act of 1986 which were received late last year. In two reports published by the Office of the Secretary of Defense staff and in the report of the Chairman of the Joint Chiefs of Staff, recommendations were advanced concerning the separation of C³ and intelligence and establishing an Assistant Secretary of Defense for intelligence to centrally coordinate and focus on U.S. intelligence issues.

From the committee's perspective, the need for this new position is best exemplified by the difficulties the committee has experienced in the past in identifying which defense official to look to in seeking understanding of the intelligence needs of the Department,

as well as the reasons for various apparent intelligence shortfalls in supporting DoD operations. The committee notes that it is particularly convinced of the need to bring within the cognizance of the defense official responsible for foreign intelligence matters the responsibility for counterintelligence activities that tie so directly and critically into other Defense intelligence activities.

In an effort to minimize the impact of the creation of this new, consolidated intelligence portfolio within the Department of Defense, Section 702 creates an additional underdesignated Assistant Secretary of Defense so as to permit the Secretary to designate, if he wishes, a new Assistant Secretary to retain the portfolio of Command, Control, and Communications held today by the assistant Secretary of Defense for Command, Control, Communications and Intelligence.

Section 703

Section 703 makes technical revisions to, and redesignates, Section 1607 of Title 10, United States Code, which permits the Defense Intelligence Agency to withhold from disclosure information about its personnel and organization, in order to conform it more closely to the format of Title 10. No substantive revision of DIA's current authority is intended.

ADDITIONAL ISSUES

Last year in the Classified Annex to the Intelligence Authorization Bill, the committee commented on the proposal to provide a signals intelligence (SIGINT) capability to National Guard units. The committee noted that a dispute between the National Security Agency and the Army concerning the control of the assets had not been resolved. The committee questioned the need for such a capability based on Army Active and Reserve Component capabilities and the known equipment shortfalls in the units. The committee requested that the Assistant Secretary of Defense for Command, Control, Communications and Intelligence inform the committee on the resolution of the differences between the Army and the NSA, and if the Army was to proceed with a SIGINT capability for the National Guard, the committee would expect detailed justification in future budget requests for the program as well as the development and implementation of procedures to control the collection and exploitation of SIGINT. To date, the issue has yet to be resolved.

The committee believes that serious legal and constitutional questions may be posed by National Guard SIGINT operations and that the Secretary of Defense should carefully review these questions in resolving the issue. Until such time that the issue is resolved, the committee cannot recommend authorization of tactical SIGINT assets for the National Guard and no authorization for National Guard SIGINT operations is contained in H.R. 4387.

Section 505 of the Intelligence Authorization Act for Fiscal Year 1987 directed the Secretary of Defense to establish an undergraduate training program (UTP) at the National Security Agency. Section 506 of the Act directed the Director of Central Intelligence to set up a UTP at the Central Intelligence Agency consistent with

the provisions of Section 505. The committee's intent in creating UTP's was to assist CIA and NSA in attracting new minority employees and to facilitate the recruitment of students possessing academic skills in certain disciplines critical to intelligence functions, i.e. mathematics, engineering, computer science and foreign languages.

The committee hoped that through the UTP's CIA and NSA would be able to gain early access to a pool of talented potential employees whose skills are so necessary for the success of future missions of the two agencies.

In authorizing the UTP's, the committee expected that the programs would be consistent with each other. Specifically, the committee stated in its report accompanying the Fiscal Year 1987 Intelligence Authorization Act that the programs should provide salaries and certain expenses incident to employee assignments including, but not limited to matriculation fees, tuition, library and laboratory fees and the purchase or rental of books, materials and supplies.

The committee did not list payment of room and board to UTP participants, a feature incorporated by CIA. Such payments create a broad discrepancy in the two programs. The committee has expected such expenses would be a responsibility of the individual.

The committee also notes a disparity in the formula used by CIA and NSA to calculate a student's obligation to the individual agency upon completion of his or her undergraduate studies. It was and remains the committee's intent that for each year or partial year of education provided by NSA and CIA, the student would be obligated to serve in the employing agency for one and a half years. For a traditional four-year undergraduate program, assuming the school year is nine months, the committee would expect a student's obligation to compute to 54 months of required service. The committee views CIA's practice of subtracting months of summer employment from the total number of months spent in school to be an inappropriate interpretation.

The committee views these differences with concern and urges CIA to reconcile the differences in its program with NSA so as to achieve uniformity in the administration of both individual UTP's.

The committee recognizes and applauds the efforts of both agencies in recruiting students for the UTP's in such a short time frame. However, it is the belief of the committee that not enough effort is being put into recruiting students in high schools. The result of concentrating UTP efforts at colleges is that many qualified high school candidates who for financial reasons do not apply for admission to colleges are excluded from any possible consideration. These are the very students the UTP's were designed to attract.

The committee urges new efforts at focusing UTP's on high school candidates.

COMMITTEE POSITION

On April 14, 1988, the Permanent Select Committee on Intelligence, a quorum being present, approved the bill and by unanimous vote.

OVERSIGHT FINDINGS

With respect to clause 2(1)(3)(A) of Rule XI of the House of Representatives, the committee has held extensive hearings regarding the nature and conduct of the intelligence and intelligence-related activities of the U.S. Government in considering this legislation. This review is outlined under the section of this report describing the scope of the committee review. A wide range of recommendations regarding intelligence programs and their management has been included within the classified annex of this report.

FISCAL YEAR COST PROJECTIONS

With respect to clause 2(1)(3)(B) of Rule XI of the House of Representatives and Section 308(a) of the Congressional Budget Act of 1974, this legislation does not provide new budget authority or tax expenditures. The committee has attempted pursuant to clause 7(a)(1) of Rule XIII of the Rules of the House of Representatives to ascertain the outlays which will occur in fiscal year 1988 and the 5 years following if these amounts are appropriated. These estimates are contained in the classified annex and are in accordance with those of the executive branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to clause 2(1)(3)(C) of Rule XI of the House of Representatives, the committee has received no report from the Congressional Budget Office.

RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

With respect to clause 2(1)(3)(D) of Rule XI of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to the subject of this bill.

INFLATION IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the House of Representatives, the committee has attempted to determine the inflationary impact of the bill.

The committee finds no adequate method to identify the inflationary impact of the present legislation. Further, the bill does not provide specific budget authority but rather authorizations for appropriation. Hence, any inflationary impact would depend on the amounts actually appropriated and the strain that short supplies of materials, production capacity or other economic resources would place on industrial capacity.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 4387, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):